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July 17, 2008

VIA FACSIMILE

The Honorable Victor Marrero
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street, Room 660
New York, New York 10007

Re: Ping An Property and Casualty Insurance Co. of China Ltd., *etc.* v.
High Seas Servicios Maritimos Lda, *et al.*
08 Civ. 3296 (VM)
Our File No.: 1552.0006

Dear Judge Marrero:

We are counsel for the defendants in this matter and have filed a restricted appearance pursuant to Supplemental Rule E(8). Defendants will shortly be filing a motion to obtain a hearing pursuant to Supplemental Rule E(4)(f), to require the Plaintiff to show cause why the current attachment should not be vacated. A copy of defendants' notice of restricted appearance is attached hereto.

The thrust of defendants' motion to vacate the attachment is that the Complaint fails to state a valid maritime claim against any of the "BNavis" defendants. Up to now, only property of defendant BNavis Ship Management S.r.L. has been restrained. As the Court is aware, the Order authorizing attachment of BNavis Ship Management's funds was issued on May 8, 2008. However, the bulk of BNavis Ship Management's funds were attached on May 2 and May 5, 2008.

Moreover, the very status of BNavis Ship Management S.r.L. as a defendant is unclear. On May 8, 2008, the Court issued an amended *ex parte* Order of attachment in which BNavis Ship Management S.r.L. is named as an additional defendant. The amended order recites that an Amended Verified Complaint was filed on May 6, 2008 naming BNavis Ship Management as an

additional defendant. However, no such Amended Complaint has been docketed in this case. If the Amended Complaint has not been filed, then an application for an amended *ex parte* order to attach property of a non-party, BNav Ship Management, should not have been made by the plaintiff.

Defendants also intend to challenge the attachment on grounds that the attachment, at best, is seeking to restrain property of agents for disclosed principals, and is, therefore, impermissible. See *Isbrandsten Co., Inc. v. Lenaghan*, 128 F. Supp. 662 (S.D.N.Y. 1954) (vacating maritime attachment against ship manager because manager was agent of disclosed principal and thus not liable for principal's liabilities); *International Maritime Consultants, Inc. v. Karavias*, 82 Civ. 8296, 1985 U.S. Dist. LEXIS 19272 (S.D.N.Y. June 3, 1985).

Defendants respectfully request a conference before Your Honor for purposes of elaborating on the grounds of this motion and to set a briefing schedule for the submission of defendants' motion to vacate pursuant to Supplemental Rule E(4)(f).

We thank the Court for its consideration of this request.


Respectfully submitted,

BROWN GAVALAS & FROMM LLP



Peter Skoufalos

cc: (via facsimile)
Law Offices of Rahul Wanchoo
Attorneys for Plaintiff
Empire State Building
350 Fifth Avenue, 59th Floor
New York, New York 10118

Request GRANTED. A status conference herein is scheduled for <u>7-25-08</u> at <u>3:45 P.M.</u> to address the matter described above by <u>defendants</u> .	
SO ORDERED.	
<u>7-18-08</u> DATE	
VICTOR MARRERO, U.S.D.J.	

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
PING AN PROPERTY AND CASUALTY
INSURANCE COMPANY OF CHINA LTD.,
AS SUBROGEE OF CHINA INTERNATIONAL
FUND LTD.,

Plaintiff,

-against-

HIGH SEAS SERVICOS MARITIMOS LDA,
BNAVI SHIP MANAGEMENT (INDIA)
PRIVATE LTD., BNAVI S.P.A. and BNAVI SHIP
MANAGEMENT S.R.L.,

Defendants.
-----X

08 Civ. 3296 (VM)

**NOTICE OF RESTRICTED
APPEARANCE PURSUANT
TO FED. R. CIV. P. SUPP.
RULE E(8) OF THE
SUPPLEMENTAL RULES
FOR CERTAIN ADMIRALTY
AND MARITIME CLAIMS**

TO THE CLERK OF THE COURT AND ALL PARTIES OF RECORD:

PLEASE TAKE NOTICE that BROWN GAVALAS & FROMM LLP has been retained by all Defendants in the above-entitled action, and hereby demands that copies of all proceedings in this action subsequent to the Summons and Complaint be served upon BROWN GAVALAS & FROMM LLP at its office as listed below.

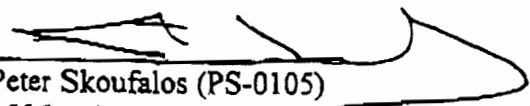
PLEASE TAKE FURTHER NOTICE that Defendants, by their attorneys, BROWN GAVALAS & FROMM LLP, hereby enter a restricted appearance pursuant to Supplemental Rule E(8) of the Fed. R. Civ. P., solely to defend against the alleged admiralty and maritime claims asserted by plaintiff, PING AN PROPERTY AND CASUALTY INSURANCE

COMPANY OF CHINA LTD. a/s/o CHINA INTERNATIONAL FUND LTD. with respect to money, funds, and electronic fund transfer payments restrained by garnishees named in the Process of Maritime Attachment and Garnishment issued in this matter, and any other or supplemental garnishees who may restrain the property of Defendants and as to which there has issued Process of Maritime Attachment and Garnishment, reserving all defenses available to Defendants including, but not limited to, personal jurisdiction, venue, and service.

Dated: New York, New York
July 17, 2008

BROWN GAVALAS & FROMM LLP
Attorneys for Defendants

By:



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TO:

Via ECF
Clerk of the Court
United States District Court
Southern District of New York
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